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10/689,750	10/22/2003	Gerald Lee Owen	982CIP	4356

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EXAMINER

SMITH, KIMBERLY S

ART UNIT PAPER NUMBER

3644

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/689,750
Filing Date: October 22, 2003
Appellant(s): OWEN ET AL.

John D. Gugliotta, P.E., Esq.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 02/09/05.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Grounds of Rejection to be Reviewed on Appeal*

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) *Claims Appendix*

A substantially correct copy of appealed claims 1-10 appears on page 10-12 of the Appendix to the appellant's brief. The minor errors are as follows: page 12 and 13 of the Appellant's brief include claims directed to a disposable sink liner which do not pertain to the current invention on Appeal. The first set of claims 1-10 located on pages 10-12 of the Brief are correct. The additional claims 7 (canceled) and 8-10 directed to a sink liner are incorrect and not currently on Appeal.

Art Unit: 3644

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-10 are rejected under 35 U.S.C. Section 103(a) as being obvious over Tallerico, US Patent 5,327,670.

Tallerico discloses a lure module comprising a proximal end having a tie eye (30), a distal end having a snap swivel (32) and lure means there between (as seen in Figure 1), wherein the tie eye can be affixed to a fishing line and the snap swivel can be attached to a hook. However, Tallerico does not disclose a plurality of lure module elements. It is noted that there is no variation claimed between the plurality of lure elements (i.e. one includes various elements that another variation does not) and thereby a single lure module having the identical elements reproduced more than once would meet the claimed limitations. As such, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a plurality of lure module elements, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 13 USPQ 8.

Regarding claim 4, Tallerico discloses a wire separating the proximal and distal ends.

Regarding claims 2, 5 and 6, Tallerico discloses the lure means being selected from the group of functional elements for creating a game fish attraction through sight, smell, sound and vibration.

Art Unit: 3644

Regarding claims 3, Tallerico discloses the functional elements are selected from the claimed group.

Regarding claims 7-10, while not positively stated Tallerico inherently discloses through the use of the apparatus the method of selection of interchangeable elements, attachment of interchangeable elements to a fishing line, selection of a hook and the attachment of the hook.

(10) Response to Argument

The sole argument of the Appeal Brief is that the cited reference discloses only a trolling lure, not capable of being cast and not modular. It is noted that the Appellant's arguments are more specific than the claim limitations call for. The ability of the device for being cast has not been claimed. Further, while the preamble of the claim states that the device is modular, the defining limitations do not point out any particular component which provides for such modularity. Assuming that the modularity of the device is considered to be the fact that a snap swivel can be removably attached to any selected hook of choice, the Tallerico reference discloses the use of such a snap swivel at 32 thereby defining a lure considered to be modular.


(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Art Unit: 3644

Respectfully submitted,



HARVEY E. BEARFIELD
PRIMARY EXAMINER

kss

April 18, 2005

Conferees

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